THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 25536 OF 1998

Between:

L.Sampath Rao, Assistant Engineer working
In respondent-Board and others

… Petitioners

And:

A.P.State Electricity Board, rep. By its Member
Secretary, Hyderabad.

… Respondent

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P. NO. 25536 OF 1998

ORAL ORDER:

The petitioners, 15 in number, have all been now appointed as Assistant Engineers by transfer from the category of Sub Engineer/sub Overseer in the respondent's service. They initially entered the service as Sub Engineer/Sub Overseer. There was no avenue for appointment to the category of Assistant Engineer initially. Any Sub Engineer/Sub Overseer could only aspire for the post of Assistant Engineer on acquisition of graduate qualification and competing in direct recruitment.

On account of the increased availability of Engineering graduates together with Engineering educational facilities becoming available and inclination of some of the in-service Sub Engineers/Sub Overseers to acquire such qualification for career advancement, a situation had arisen where a substantial number of persons working as Sub Engineers/Sub Overseers in the respondent's service had also acquired Engineering qualification during service.

To provide an incentive for acquisition of higher academic qualifications and to provide career advancement opportunity to such persons, the respondent evolved a policy and issued orders in B.P. (P&S PER) MS No.354 dated.12.12.1994 amending the AP State Electricity Board Service Regulations-III issued in BPMS No.89 dated. 2.2.1970.

According to the amendment issued in BPMS No. 354, impugned in this writ petition, recruitment to the category of Assistant Engineer in Branch-II Civil, which was earlier exclusively by direct recruitment, was amended to incorporate recruitment by transfer also. Accordingly recruitment by transfer is to be from the category of graduate Sub Engineers/Sub Overseers with a minimum of 4 years of service in that category or in all categories of Sub Engineer/Sub Overseers, Linemen, Tester etc., subject to the stipulated conditions.

The petitioner is aggrieved by one of the conditions i.e., condition No.3 which stipulates that on such appointment the Sub Engineer/Sub Overseers appointed as Assistant Engineers will have to take the last rank as on the date of appointment and below the junior most Assistant Engineer trainee as on the date of such appointment by transfer.

The petitioners plead and the learned counsel for the petitioners Sri Vedula Venkata Ramana contends in reiteration of the pleadings that according to the extant regulations and procedure of the respondent, direct recruit Assistant Engineers are initially sent for training for one year and only on successful completion of training would be appointed to the service and put on probation. Drawing from this factual matrix, the petitioners contend that condition No.3 in BPMS No.354 which ordains that the Sub Engineers/Sub Overseers appointed by transfer as Assistant Engineers should take seniority below even trainee direct recruit Assistant Engineer, is arbitrary as it amounts to diminuting their seniority status *qua* persons who are not

even appointed to the service.

On behalf of the respondent a counter-affidavit is filed. To the extent relevant and material the counter states that earlier to BPMS 354 Sub Engineers/Sub Overseers were not entitled appointment as Assistant Engineers. Such of the persons belonging to these categories and who have an Engineering graduate qualification could only compete for direct recruitment. With a view to create career advancement opportunities for Sub Engineers/Sub Overseers with graduate Engineering qualification, the respondent evolved a policy whereby Graduate Sub Engineer/Sub Overseers could be appointed by transfer as Assistant Engineers. This is not a promotional opportunity. The reason for the impugned condition which accords lower seniority status to Sub Engineer/Sub Overseers (appointed by transfer as Assistant Engineers) over those Assistant Engineers who were directly recruitment and even though such direct recruit engineers are in training, is that the direct recruits enter service after an assessment through a rigorous process of written examination, oral inter view, group discussion and the like. The direct recruit Assistant Engineers are therefore superior in merit and competence levels and they constitute the cream of Graduate Engineers. Assistant Engineers appointed by transfer from the category of Sub Engineers/Sub Overseers do not undergo any such selection rigour. According to the respondent, the object of the amendment is to encourage in-service candidates to acquire higher qualifications. They are provided a window of opportunity for appointment as Assistant Engineers by appointment by transfer without a process of competitive examination and to the extent of 10% of the vacancies. Since direct recruit Assistant Engineers are, in view of the process of recruitment, superior in merit and competence levels to in-service Sub Engineers/Sub Overseers, higher seniority status is ensured by the impugned regulations and in the interest of the Corporation, is the core contention

of the respondent.

The jurisdiction of this court in judicial review against the recruitment policy of the respondents falls within a narrow compass. This court is not constituted an appellate authority over the policy choices of the respondent, as long as such policy is neither perverse nor demonstrably arbitrary or irrational. The petitioners who belong to one of the feeder categories of Sub Engineer/Sub Overseer have no fundamental or legal right to appointment as Assistant Engineers. Such of the petitioners who are so desirous could, if otherwise eligible, compete for the post of Assistant Engineer at direct recruitment.

The respondent has engendered the impugned policy to provide a limited career advancement opportunity for Graduate Engineers. In doing so the respondent was faced with a plurality of value choices. One such choice was to afford an opportunity to the in-service candidates to increment their qualifications while sustaining the quality of service and the need to ensure higher positions at least in seniority to those Graduate Engineers who come to the service after competing at direct recruitment. With a view of accommodating both these vital institutional interests the impugned regulations are evolved. The impugned regulations are not seen to be irrational or to suffer from the vice of invidious discrimination. The classification between in-service Sub Engineers/Sub Overseers and direct recruit Assistant Engineers is based on a clear and rational distinction. The impugned regulations have a rational nexus with the twin objects sought to be achieved through the executive policy. No vice of discrimination u/Art. 14 of the Constitution is made out.

There are no merits. The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM,J

11TH SEPTEMBER 2007

***TSNR/PVSN**